

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KARL J. DAHLSTROM,

Petitioner,

v.

Case No. 07-10580

Honorable David M. Lawson

JAN E. TROMBLEY,

Respondent.

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ORDER GRANTING IN PART AND DENYING IN PART
CERTIFICATE OF APPEALABILITY

On March 23, 2009, the Court denied the petitioner's application of writ of habeas corpus. The Court will now consider whether to issue a certificate of appealability.

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Courts must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997). To receive a certificate of appealability, "a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotes and citations omitted).

Although the Court believes it correctly rejected the petitioner's first claim alleging that there was insufficient evidence to support the petitioner's convictions for both first-degree and second-degree criminal sexual conduct, a reasonable jurist could conclude otherwise. Therefore, the Court

will grant the petitioner a certificate of appealability on this claim. However, the Court will deny the certificate of appealability on the remaining claims. The Court finds that reasonable jurists could not debate these issues, and that the Court properly rejected these claims.

Accordingly, it is **ORDERED** that the petitioner is granted a certificate of appealability with respect to his insufficiency-of-evidence claim only (claim one).

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 29, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 29, 2010.

s/Teresa Scott-Feijoo
TERESA SCOTT-FEIJOO